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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,192	11/21/2001	Richard G. Sheets	37809-0018	9322

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HELLER EHRMAN WHITE & MCAULIFFE LLP
1666 K STREET,NW
SUITE 300
WASHINGTON, DC 20006

EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/989,192

Applicant(s)

Sheets

Examiner
Ivars Cintins

Art Unit
1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 28, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-44 is/are pending in the application.
- 4a) Of the above, claim(s) 21-28 and 33-44 is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

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Applicant's election of Group IIc, claims 29-32, in Paper No. 8 is acknowledged. Because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 21-28 and 33-44 are withdrawn from further consideration, as being directed to non-elected inventions.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 32 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. It is not clear what "thickness" is represented by the unit "wgt" in line 2 of claim 32. Also, the term "regular" (claim 32, line 3) is vague, and indefinite as to the type of protuberances intended.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been

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obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guymon (U.S. Patent No. 5,252,138). The reference discloses a method for reclaiming dredged material comprising placing the dredged material (i.e. soil 30) into a container (i.e. processing vessel 12), injecting remedial water (i.e. via 22) into the material to leach contaminants (i.e. oil 14) from this material, and dewatering the contaminated material (i.e. by removing water 21). Accordingly, this reference discloses the claimed invention with the exception of the recited liner, plastic barrier and type of injector employed (i.e. pipes). However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the container of the reference system with an impermeable liner, in order to prevent leakage during the remedial water treatment step. Similarly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide this reference container with a cover in order to prevent treatment water from overflowing this container. Furthermore, injecting water via pipes is well known; and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ this known technique to contact the

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treatment water and contaminated soil with one another in the system of Guymon. Moreover, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a container having the depth recited in claim 31 in the reference system, in order to treat a corresponding amount of soil. Similarly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to locate the injector pipes of the modified reference system at the depth recited in claim 31, in order to ensure adequate contact between the remedial water and soil undergoing treatment in this reference system.

Claim 32 would be allowed if rewritten in independent form to include all of the limitations of the base claim and any intervening claims, and if further amended to overcome the above rejection under 35 U.S.C. § 112. Also, non-elected claims 21-28 and 33-44 should be canceled.

Norris et al. (U.S. Patent No. 4,849,360) discloses decontaminating soil in a covered impermeable container (col. 2, lines 37-42).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00

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PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas Dunn, can be reached at (703) 308-3318.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
May 17, 2003